

CHAPTER NO. 129

HOUSE BILL NO. 3601

By Representatives Patton, Davis

Substituted for: Senate Bill No. 3503

By Senator Crowe

AN ACT to allow certain fire departments to sell fireworks in Washington County and to repeal Chapter 681 of the Private Acts of 1949, and all acts amendatory thereto.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 681 of the Private Acts of 1949, and all acts amendatory thereto, is repealed in its entirety.

SECTION 2. As used in this chapter:

(1) "Pyrotechnics" means any sparkler, squibb, rocket, firecracker, roman candle, fire balloon, flashlight composition, firework or other similar device or composition used to obtain a visible or audible pyrotechnic display, including all D.O.T. Class C common fireworks and special fireworks defined in Tennessee Code Annotated, Section 68-104-101.

(2) "Fire department" means a department of a municipality or an organization, agency, or entity that either voluntarily or for remuneration offers its services to suppress fires or to perform rescue or other emergency response services, that possesses a valid certificate of recognition issued by the state fire marshal pursuant to Tennessee Code Annotated, Title 68, Chapter 102, Part 3, and that serves as the primary fire department for a geographical territory within Washington County. Fire department does not include any law enforcement agency, emergency medical agency licensed by the Tennessee emergency medical services board, or rescue squad that does not provide fire protection.

SECTION 3. Except as otherwise provided by this chapter, it shall be unlawful for any person, firm or corporation to possess, store, use, manufacture or sell pyrotechnics in Washington County.

SECTION 4. Any article of merchandise coming within the definition of pyrotechnics that is possessed by a person not otherwise permitted to possess it by this chapter is hereby declared to be contraband and subject to confiscation whenever found within the boundaries of Washington County. It shall be the duty of the sheriff and all peace officers of Washington County to seize such articles and destroy them.

SECTION 5. A person, firm or corporation may conduct a public display of pyrotechnics by contract or arrangement for any state or county fair, patriotic assembly or similar public function; provided, however, that the person, firm or corporation must acquire all articles used in the pyrotechnic display from either a point outside Washington County or from a fire department within Washington County that is duly authorized to sell the articles, must keep the pyrotechnic articles in its possession at all times during the public gathering, and must transport the same out of Washington County upon the conclusion of the arrangement or contract under which the pyrotechnics are displayed for public entertainment.

SECTION 6. A fire department approved pursuant to Section 7 of this chapter may purchase for resale, possess, store, use and sell pyrotechnics. It shall be lawful for any person, firm, or corporation within Washington County to use pyrotechnics purchased from such approved fire department.

SECTION 7. A fire department must submit an annual application to the county clerk and receive a permit as provided by this chapter in order to purchase for resale, possess, store, use or sell pyrotechnics. The county clerk shall forward all applications to the county legislative body for approval. The county legislative body shall have the authority to issue such permit for a period of one (1) year, upon approval of the application, and upon assurance that such organization has complied with any applicable state law.

SECTION 8. The legislative body may establish an annual application fee in an amount in its discretion but no less than two hundred dollars (\$200) for a permit to purchase for resale, possess, store, use or sell pyrotechnics. The application fee shall be submitted to the county clerk with the application.

SECTION 9. Fire departments shall only be allowed to operate as a seasonal retailer as defined by Tennessee Code Annotated, Title 68, Chapter 104, Part 101, and shall only operate for those dates during which a seasonal retailer may operate pursuant to that part. Fire departments shall only sell fireworks within such hours and to such persons as the county legislative body determines is appropriate to protect the citizens of Washington County from the irresponsible use of pyrotechnics. Fire departments shall use all profits from the sale of pyrotechnics for the purchase of fire safety equipment, for the training and education of the public or of fire safety personnel, or for other expenses directly related to enhancing the fire safety of the public.

SECTION 10. The county legislative body is authorized to adopt resolutions or ordinances to provide reasonable rules and regulations for the implementation of this chapter, including but not limited to limiting the hours of operation during which pyrotechnics may be sold, limiting the locations where pyrotechnics may be sold, prescribing civil penalties for any violation of this chapter in its discretion, and prescribing any other necessary and appropriate requirements for the enforcement and administration of this chapter.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Washington County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by the presiding officer of the county legislative body to the secretary of state.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall become effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided by Section 12.

PASSED: May 19, 2004


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 7th day of June 2004


PHIL BREDESEN, GOVERNOR